

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of]		
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Morris, Daniel]		
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Serial No.: 10/630,532]	Examiner:	Fonya M. Long
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Filed: July 30, 2003]	Art Unit:	3689
]		
For: System and Method for Automated]		
Release Tracking]		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 CFR 1.132

1. My name is Daniel R. Morris.
2. I am the founder and CEO of reRequire, L.L.C. (hereafter reRequire), 5029 Corporate Woods Drive, Suite 225, Virginia Beach, Virginia, 23462.
3. I founded reRequire in 2002 to solve the epidemic problem in the real estate closing transaction industry related to unreleased mortgages.
4. Land record repositories throughout the country provide public notice of stakeholders' claims on real property. Release of a lender's claim on property is required after payment or satisfaction of the underlying loan. Lenders have historically failed to appropriately file notice of release of their lien in a timely manner.

5. This problem resulted in part from the nationalization of mortgage origination and servicing coupled with the diversity of statutes, regulations, and local customs unique to individual counties wherein the secured real property lies. Loans and loan records are no longer a local phenomenon. This has led to challenges for payoff lenders seeking statutory compliance in releasing secured real properties when the mortgage note is paid or satisfied. The broad incongruency in lien release/reconveyance methods from state to state has resulted in significant failure of the release instrument to appear in the proper land record index. As a result, as many as 30% of paid mortgages may not appear in land record indexes causing title defects such as slander of title.
6. The problem has persisted because lien release management is a follow-on task after a real property-secured loan closing has occurred and parties holding prior liens have been paid. As a result, there has been little motivation by the payoff lender to properly follow through with lien release management. Exhibit A is a 2009 article describing the problem from the lender's perspective in more detail.
7. State laws requiring timely lien releases have been in existence for decades. However, recent laws have been enacted to help address the recent problems brought about by the nationalization of mortgage origination and development of secondary mortgage markets. For instance, in 2004, the Uniform Residential Mortgage Satisfaction Act (URMSA) was promulgated by the National Conference of Commissioners on Uniform State Laws to satisfy the problem of mortgage satisfactions. Exhibit B is a summary of the URMSA.

8. Even the Internal Revenue Service has recognized the problem and lack of solutions for timely lien release management. Attached as Exhibit C is a July 18, 2002 IRS Management Report pointing out the federal government's own need to enable procedures to track the status of tax lien releases.
9. The result of the lienholder's (payoff Lender's) failure to properly follow through with the recordation of their releases has directly impacted consumers owning the property subject to the wrongful lien. Title defects on the property result. These defects adversely affect several entities or persons associated with the lien property – the landowner, closing attorney, title company and others. These affected entities or persons are not benefited from the lender's methods of producing and recording their releases.
10. Until the reQuire system, there was no system to track and report on the payoff lenders' performance of their duty to release paid liens. No system was available to landowners, title insurance underwriters insuring the subject property, or the attorney or settlement companies performing escrow closing to track and report on the lien release to help ensure that the release appears in the land records.
11. reQuire is a software-based lien release tracking and reporting service available at no cost to entities disbursing payoff funds satisfying lien requirements and directly benefiting the landowner, closing attorney and title company issuing title insurance on the property.

12. reQuire provides, among other things, a communication link between the payoff lender and the settlement/escrow agent to facilitate release tracking and reporting to various entities and persons.
13. reQuire relieves the settlement agent's burden and ensures that lenders comply with statutory requirements.
14. By using reQuire, settlement agents and attorneys closing real estate transactions: (1) avoid follow-up work on closed files; (2) are assured that reQuire will track and report the status of every file entered into the system; and (3) can defer any calls to reQuire that are related to releases.
15. By using reQuire, title underwriters see a reduction in claims arising from unreleased deeds of trusts and mortgages, a reduction in defalcation, and some measurable reduction in mortgage fraud.
16. reQuire's efforts verify that (1) each and every paid note is fully paid or satisfied by the obligor; and (2) a proper lien release or cancellation instrument is recorded in a timely manner.
17. By using reQuire, real property sellers are assured that the conveyance of their real property is truly free of the lien and encumbrance represented by the paid mortgages on their property. Borrowers benefit by knowing the former lien will be properly released,

or in the case of open lines of credit, that the credit line will be properly closed and the related mortgage lien is released. Home buyers are assured that all mortgage liens paid off at the closing of the property they are purchasing will be released 100% of the time. Title Underwriters are assured that the requirements associated with issuance of title insurance for either the landowner or subsequent lenders needing security of their loans.

18. In short, reQuire benefits all parties (direct and indirect) to a real property transaction.

19. reQuire's release tracking fee is typically paid by the seller in a sale or the borrower in a refinance. reQuire's fee is \$35 per paid lien.

20. Since 2004, reQuire has tracked more than 500,000 transactions.

21. reQuire's gross revenue from release tracking services has grown from approximately \$388,000 in 2004 to approximately \$5,946,000 in 2009.

22. reQuire spends approximately \$200,000 per year in marketing and advertising its release tracking services. Exhibit D is a sample advertisement provided by reQuire.

23. The number of settlement agents using require has grown from approximately 87 in 2004 to approximately 2,229 in 2010.

24. Every major settlement agent company in the country uses reQuire for title tracking services.
25. reQuire was the first Internet-based, automated title release tracking company.
26. Prior to reQuire, no company has provided a service, system or method that provides access to real property-related lien records for a plurality of lien record-keeping jurisdictions; identifies at least one real property-related lien where a note underlying the at least one lien has been satisfied; searches the lien records and determines from the lien records whether the real property-related lien is due for release as a result of the note having been satisfied; and identifies whether the lien holder is subject to an action for non-release of a real property-related lien.
27. Prior to reQuire, no company has provided a service, system or method for managing lien releases that provides means for iteratively querying lien records and performing the identification in paragraph 26 above at given time intervals.
28. Prior to reQuire, no company has provided a service, system or method for managing lien releases that provides a reporting component for presenting a report of a subset of the lien records queried as described in paragraph 26 above, with the report including the identification of any liens due for release and any lien holders subject to penalty for non-release associated with that subset.

29. Prior to reQuire, no company has provided a service, system or method that includes:
determining whether a lien record associated with said at least one real property-related lien can be tracked electronically and whether the at least one lien is due for release as a result of a note underlying the at least one lien having been satisfied.
30. Prior to reQuire, no company has provided a service, system or method for managing lien releases that comprises: a lien management component for receiving transactional information related to at least one real property-related lien and providing at least one electronic document based on the transactional information; a lien searching component for determining whether a lien record associated with the real property-related lien can be tracked electronically and whether the lien is due for release as a result of a note underlying the at least one lien having been satisfied, including searching for the lien record, and receiving search results associated with the lien record; and a reporting component for presenting a report identifying a release status associated with the lien record.
31. Prior to reQuire, no company has provided a service, system or method that includes:
providing a network-accessible server having access to lien record information for a plurality of lien record-keeping jurisdictions, with the server further having access to a database of electronic documents associated with at least one lien status, and further having means for identifying a lien status based on transaction information and jurisdiction information associated with a real property-related lien; providing at least one user interface capable of accessing the server for inputting identification and transaction

information pertaining to at least one real property-related lien; and providing at least one user interface capable of accessing the server for requesting at least one search in connection with at least one real property-related lien and for requesting a determination as to whether the real property-related lien has been released where a note underlying the lien has been satisfied.

32. Prior to reQuire, no company has provided a service, system or method comprising: a network-accessible server having access to lien record information for a plurality of lien record-keeping jurisdictions, with the server further having access to a database of electronic documents associated with at least one lien status, and further having means for identifying a lien status based on lien transaction information and lien jurisdiction information; at least one user interface capable of accessing the server for inputting identification and transaction information pertaining to at least one real property-related lien; at least one user interface capable of accessing the server for requesting at least one search in connection with at least one lien and for requesting a determination as to whether the real property-related lien has been released where a note underlying the lien has been satisfied.

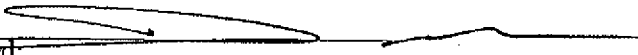
33. The capabilities of reQuire as outlined in paragraphs 26 through 32 are what has enabled reQuire to be successful in the industry. Exhibit E is a copy of a website training manual provided by reQuire that illustrates how the above elements of paragraphs 26 through 32 are provided by reQuire's service, system and method. The advertisement in Exhibit D

further shows that reQuire advertises the capabilities in paragraph 26 as its core release tracking and reporting business.

34. Since the development of reQuire in 2002, others in the industry have begun to copy require and provide similar services. Exhibit F is an Internet web page illustrating one such entity.

35. I estimate that reQuire holds approximately 90-95% of the market share for title tracking services.

36. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Signed:  _____

Date: 6-8-2010